IN THE MATTER OF THE APPLICATION OF C.F. EVANS AND COUNTY BOARD OF APPEALS SONS, INC. FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTHWEST CORNER HARFORD ROAD AND PUTTY HILL BALTIMORE COUNTY AVENUE (8800 HARFORD ROAD) 9TH ELECTION DISTRICT * CASE NO. 90-66-SPH 6TH COUNCILMANIC DISTRICT

1150 1

This case comes before this Board on appeal from an Order of the Deputy Zoning Commissioner granting the Petition for nonconforming use for a funeral home on the northwest corner of Harford Road and Putty Hill Avenue. The case was heard this day in its entirety.

Counsel for the Petitioner presented Michael B. Dallas, a land surveyor, who testified that he prepared the plat of the site entered as Petitioner's Exhibit No. 1 and further testified that he was personally familiar with this site for over 30 years. He testified that he examined all of the land records, noted the Special Exception granted for use as a funeral home in 1949, and the zoning changes indicated in the zoning maps through 1976. He further testified that prior to 1976, the zoning line between BL and D.R.5.5 to the west coincided with the property line. The line was changed so that it now parallels Harford Road and creates an area of D.R.5.5 on the subject site. Mr. Charles Evans, the property owner and funeral director, testified that he was in the funeral business for 45 years, that his father purchased the site in 1949 for use as a funeral home,

C.F. Evans and Sons, Inc., Case No. 90-66-SPH

and that it has been so used continually since then. Mr. Evans also agreed to the possibility that eventually he may want to add a small addition to the rear of the building for office use. There was no evidence presented to the Board other than this site has been in continuous use as a funeral home, no other use, and no interruption to the use. Mr. George Fitch, a member of St. John's Church, whose property abuts this site, testified that in his estimation, the only complaints the church has address the runoff allegedly deriving from the subject site. With agreement between all parties that this was not an issue before the Board, and that the sole issue before the Board was in regards to the nonconforming use, it is the opinion of this Board that the use of the subject site containing some .85 acres zoned BL, D.R.5.5 and RO as a funeral home has been substantiated. The Board will note that the nonconforming use applies only to that area described in Petitioner's Exhibit No. 1. Should any building permits be sought by the Petitioner, conformity with all applicable Baltimore County Regulations is a foregone conclusion.

It is therefore this ______ day of ______, 1990 by the County Board of Appeals of Baltimore County ORDERED that the Petition to approve the nonconforming use of the subject site as portrayed on Petitioner's Exhibit No. 1 as a funeral home be and

C.F. Evans and Sons, Inc., Case No. 90-66-SPH the same is hereby GRANTED.

* * *

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

> COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY William 1. Hackett -William T. Hackett, Chairman

IN RE: PETITION FOR SPECIAL HEARING NW/Corner Harford Road and Putty Hill Avenue (8800 Harford Road) 9th Election District

Petitioners

C. F. Evans and Sons, Inc.

* DEPUTY ZONING COMMISSIONER * OF BALTIMORE COUNTY 6th Councilmanic District

* Case No. 90-66-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

* * * * * * * * * * *

The Petitioners herein request a special hearing to approve the nonconforming use of the subject property as a funeral home in a D.R. 5.5 zone in accordance with Petitioner's Exhibit 1.

The Petitioners, by Charles F. Evans, Chairman, appeared, testified and was represented by Edward C. Covahey, Jr., Esquire. Also appearing on behalf of the Petition were Charles F. Evans, Jr., and Michael B. Dallas, Registered Property Line Surveyor. Numerous residents of the area and members of the St. John's Evangelical Lutheran Church of Parkville, Baltimore, County, Inc. located on the adjoining property, appeared as Protestants.

Testimony indicated that the subject property, known as 8800 Harford Road, consists of 0.85 acres split zoned B.L. and D.R. 5.5. The D.R. 5.5 zoned portion of the property is the site of the Charles F. Evans and Sons, Inc. Funeral Home. Mr. Evans testified his family has owned the property since 1949. He testified they were granted a special permit in Case No. 1523-SA on September 3, 1949 to operate an undertaking business from the building existing on the premises at that time. Testimony indicated that in 1962, the family obtained a building permit to construct the building that exists today; the original building has since been removed.

Mr. Evans testified the property has been used continuously and without interruption as a funeral home since 1949.

The Protestants do not dispute the funeral home's existence and continued use since 1949; however, they are concerned about water runoff. The Protestants argued that the recent removal of existing homes from the adjoining property on Putty Hill Avenue owned by Petitioners has caused water lunoff problems. Said property is not the subject matter of this hearing. The Protestants indicated they are also concerned about future additions to the existing structure. The Protestants were advised that any improvements to the subject property would be limited pursuant to Section 104 of the B.C.Z.R. and that this decision does not relieve Petitioners from complying with Baltimore County building code requirements.

As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the non-conforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered non-conforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d.

When the claimed non-conforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual

change from the prior legal use. In order to decide whether or not the current activity is within the scope of the non-conforming use, the Zoning Commissioner should consider the following factors:

> "(a) To what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;

> (b) Is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind:

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the riginal non-conforming use." McKemy v. Baltimore County, Md., Supra.

After due consideration of the testimony and evidence presented, it is clear that a funeral home has existed on the site continuously and without interruption since 1949, pursuant to the relief granted in Case No. 1523-XA, and as such a nonconforming use exists.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this Widay of September, 1989 that the Petition for Special Hearing to approve the nonconforming use of the subject property as a funeral home in a D.R. 5.5 zone in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

> 1) Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return,

and be responsible for returning, said property to its original condition.

2) Any future expansion of the existing building is limited to that area zoned B.L. Further, any improvements to the property shall be subject to the requirements of Section 104 of the B.C.Z.R.

Deputy Zoning Commissioner for Baltimore County

PETITION FOR SPECIAL HEARING TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

non-conforming use for a funeral home in a DR 5.5 zone.

The unders gned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve _____

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

·	under the penalties of I are the legal owner(s) which is the subject of t	perjury, that I/we ^{lAP} of the property
Contract Purchaser:	Legal Owner(s):	S. 5.
(Type or Print Name)	C.F. Evans and Sons. I (Type or Print Name)	nc. 2:0
Signature	Education Overly	DP
Address	(Type or Print Name)	YAR DIRTECT
City and State	Signature	
Attorney for Petitioner: Edward C. Covahey, Jr. (Type or Print Name)	8800 Harford Road Address	Phone No.
Signature	Baltimore, Maryland City and State	21234
614 Bosley Avenue Address	Name, address and phone number tract purchaser or representative Edward C. Covahey, Jr.	of legal owner, con- to be contacted
Towson, Maryland 21204 City and State	Name	
Attorney's Telephone No.:	614 Bosley Avenue, Address	828-9441 Phone No.
	aman a sala itt	14

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day 19 7 that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore

MICHAEL B. DALLAS Registered Surveyor SUITE 200 24 W. PENINSYLVANIA AVENUE TOWSON, MD. 21204

ZON ING DESCRIPTION 680U KARFORD ROAD

REGINNING for the same on the Northwest side of Rarford Road (60 feet wide) at the division line between RO zoning and BL zoning thence binding on said Northwest side of Marford Road South 33 degrees 40 minutes 18 seconds West 178.74 feet to the Northeast side of Putty Will Avenue as now widened (variable width) thence binding on said side of Putty Will Avenue the three

- 1. By a line curving to the right having a radius of 34.78 feet for the distance of 59.08 feet (said are being subtended by a chord having a bearing of South 82 degrees 19 minutes 55 seconds West 52.23 feet)
- 2. By a line curving to the right having a radius of 583.41 feet for the distance of 70.30 feet (said arc being subtende by a chord having a bearing of North 45 degrees 33 minutes 20
- 3. North 42 degrees U6 minutes 12 seconds West 85.49 feet.

thence leaving said side of Putty R!ll Avenue and running North 45 degrees 33 minutes 24 seconds East 209.83 feet to a point in line with the Southwest side of a stone wall heretofore erected thence running to and binding along said side of said wall. South '5 degrees 24 minutes 47 seconds Each 146.00 feet to the place of beginning.

CONTAINING .U85 Acre of land more or less

February 17, 1989



#524

PETTIONERS PROTESTAGE (S) SIGN-IN SHEET

HEARING ROOM -Room 301, County Office Bldg.

County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 (301) **EXECUTE** 887-3180 February 7, 1990

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 190-66-SPH C. F. EVANS AND SONS, INC. NW/corner Harford Rd. and Putty Hill Ave. (8800 Harford Road) 9th Election District 6th Councilmanic District

with restrictions.

SPH -approve nonconforming use - funeral home 9/27/89 - D.Z.C.'s Order GRANTING Petition

WEDNESDAY, MAY 30, 1990 at 10:00 a.m.

ccr Edward C. Covahey, Jr., Esquire Counsel for Petitioner Charles F. Evans

Charles F. Evans, Jr. Michael B. Dallas

Mr. and Mrs. Murhl Bauer Mr. George W. Fitch Mr. William Kash

Mr. Ralph Funkhouser People's Counsel for Baltimore County

P. David Fields Pat Keller J. Robert Haines

Ann M. Nastarowicz James E. Dyer W. Carl Richards, Jr. VDocket Clerk - Zoning Arnold Jablon, County Attorney

LindaLee M. Kuszmaul Legal Secretary

CERTIFICATE OF PUBLICATION. The Zercing Commissions of Bultimore County, by extently of the Zoning And and Regulations of Bellinora County will have a public hearing on the property identified hardic in Room 105 of the County Office Building, the county of 111 W. Cheespacks Average in Torreco, May, Jane 21224 of Jones THIS IS TO CERTIFY, that the annexed advertisement was published to THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on Petition for Special Hearing Case number: 90-95-SPH NMC Herford Road and Pull His Avenue 9600 Herford Road 961 Election District 9th Councilvenia Petitionariel: C. F. Evens and Sons, Inc. Hearing Date: Wednesday, Aug. 38, 1998 & 11:20 s. M. NORTHEAST TIMES THE JEFFERSONIAN, Special Meering: Non-contorming use for a favoral home in a DR 5.5 zone. In the event that this Putton is granted, a building permit may be issued within the thirty (30) day appeal puttod. The Zoning Commissioner will, however, entertain any request for a stay of the issuence of seld permit during the period for good cause, shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing. PO 15116 J. ROBERT HAINE ca 40-66-SPHA pric \$ 71.12

District 9 74	Date of Posting 8/13/89
Posted for Special Hearing	-
Petitioner: L. Freys 4 5	ons, Inc.
Location of property: Nw/con Hor	Ford Rd & Potty Hill Are,
8500 Hor Ford Rd.	
Location of Signe: Facing in Tors	ection of Herford & Pothy Hill.
effix. 10' Fx xoodway on f	oction of Her Ford & Putty Hill,
Remarks:	· · · · · · · · · · · · · · · · · · ·
Posted by Miffealey	Date of return: \[\int \frac{7}{18} \frac{79}{19}
Number of Signa:	

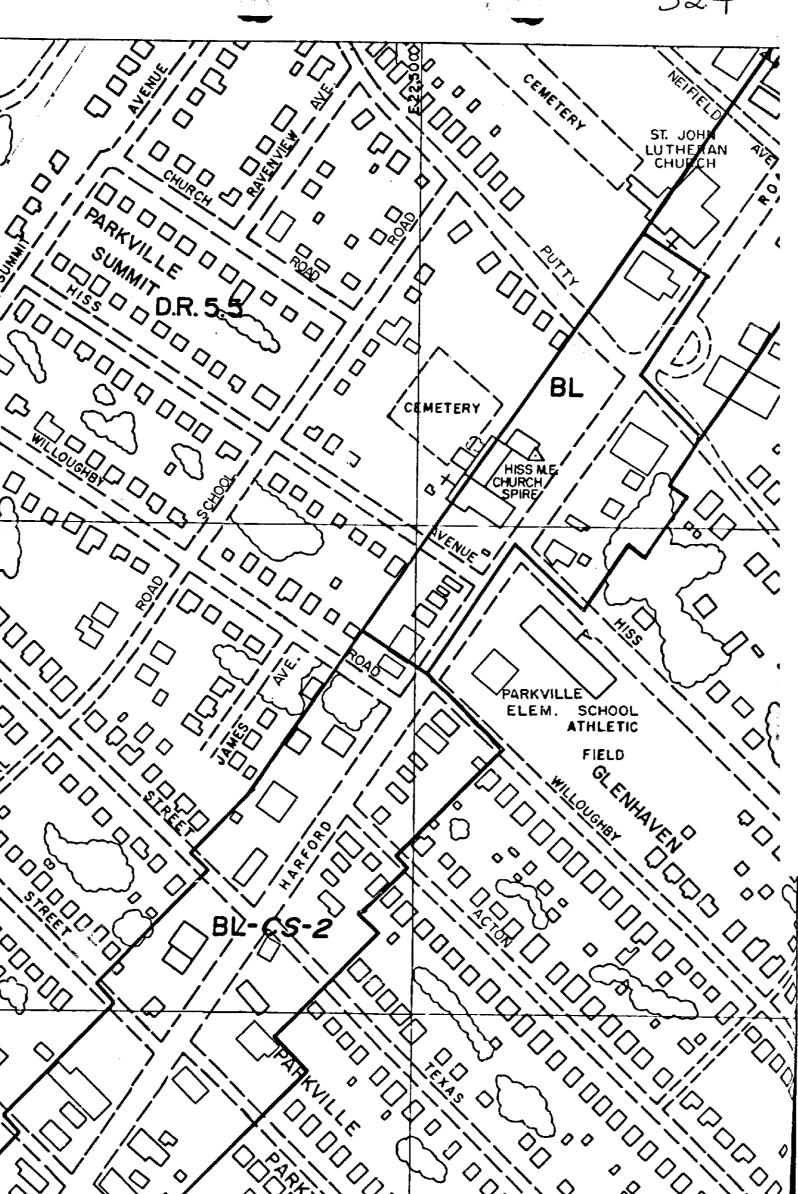
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Baltimore County Zoning Commissione. Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353

C. F. Evans and Sons, Inc. 8800 Harford Road Baltimore, Maryland 21234

> Petition for Special Hearing CASE NUMBER: 90-66-SPH NUC Harford Road and Putty Hill Avenue 8800 Harford Road

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY 90-66-5PH			
Townson, Mary	frend		
Posted for: Special Hearing	Date of Posting 8/13/89		
Petitioner: L. F. Erons 4 Sons, I			
Location of property: Nw/con Har Ford	Rd. of Potty Hill Ave,		
8500 Hor Ford Rd.			
Location of Signer Facing In Torsection	of Her Ford & Putty Hill,		
effice. 10 Fr. nodway on from	of la Tioner		
Remarks:	V.		
Posted by Milkally	Date of return: \[\frac{\(\T\)}{18/39}\]		
Thenham of Clamas / :			



J. Robert Haines
Zoning Commissioner

DATE 7/8/89

9th Election District - 6th Councilmanic Petitioner(s): C. F. Evans and Sons, Inc. HEARING SCHEDULED: WEDNESDAY, AUGUST 30, 1989 at 11:30

Please be advised that \$9612 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(5)
RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE.

DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set

JRHtgs

Edward C. Covahey. Jr.. Fsn.

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353

J. Robert Haines

November 28, 1989



RE: Petition for Special Hearing NW/Corner Harford Road and Putty Hill Avenue (8800 Harford Road) 9th Election District, 6th Councilmanic District C. F. EVANS AND SONS, INC. - Petitioner Case No. 90-66-SPH'

Baltimore County Board of Appeals County Office Building, Room 315

Towson, Maryland 21204

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on October 25, 1989 by Edward C. Covahey, Jr., attorney on behalf of the Petitioners. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Zoning Commissioner

JRH:cer

Enclosures

cc: Charles F. Evans, 8800 Harford Road, Baltimore, MD 21234

Edward C. Covahey, Jr., 614 Bosley Avenue, Towson, MD 21204 Charles F. Evans, Jr., 8800 Harford Road, Baltimore, MD 21234 Michael B. Dallas, 24 W. Pennsylvania Ave., Towson, MD 21234

Mr. & Mrs. Murhl Bauer, 8504 James Avenue, Baltimore, MD 21234 Mr. George W. Fitch, 3036 Arizona Avenue, Baltimore, MD 21234

Mr. William Rash, 3307 Putty Hill Road, Baltimore, MD 21234 Mr. Ralph Funkhouser, 1 Southerly Court, Towson, MD 21204

People's Counsel of Baltimore County Rm. 304, County Office Bldg., Towson, Md. 21204

Dennis F. Rasmussen
County Executive

Edward C. Covahey, Jr. 614 Bosley Avenue Towson, Maryland 21204 (301)828-9441

BEFORE THE

DEPUTY ZONING

COMMISSIONER OF

BALTIMORE COUNTY

CASE NO.: 90-66-SPH

CERTIFICATE OF SERVICE

APPEAL

tered in the above-captioned matter on September 27, 1989 to the

Please enter an appeal from the findings of fact en-

10/25/89:D29.jb/3251-ECC

IN RE: PETITION FOR SPECIAL

HEARING, N/W Corner

Putty Hill Ave.

Petitioners

C.F. EVANS AND SONS, INC.

County Board of Appeals.

10-25-89 (O.K.-CW)

VALIDATION OR SIGNATURE OF CASHIER

AMOUNT \$ 150.00

28 W. Allegheny Ave., Towson, MD 21204.

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION

MISCELLANEOUS CASH RECEIPT

of Harford Rd. and

(8800 Harford Rd.)

9th Election District

6th Councilmanic Dist. *

is 25th day of October, No. 077235 r. and Mrs. Murhl Bauer, . George W. Fitch, 3036 R-01-615-600 orable William Rush, 3307 ir. Ralph Funkhouser, 1 s Cole Friedman, Esquire, RECEIVED ENLYRO C. COVAMEY JP. om 223, 400 Washington owicz, Deputy Zoning Com-ADDIME FILING - CASE # 90-66-591 C.F. ENNY TOURS TAK.

> missioner for Baltimore County, Office of Planning & Zoning, Towson, Maryland 21204; and Peter M. Zimmerman, Esquire, Suite 606,

> > - 2 -

Edward C. Covahey, Jr.

Hal Kassoff

July 26, 1989

Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, Maryland 21204

Re: Baltimore County
C.F. Evans & Sons, Inc.
Zoning Meeting of 6-13-89
W/S Harford Rd. (MD 147) and Putty Hill Avenue Titem #524)

Attn: Mr. James Dyer Dear Mr. Haines:

After reviewing the submittal for a special hearing to approve non-conforming use for a funeral home, we find the plan

If you have any questions, please contact Larry Brocato at

Very truly yours,

Creston J. Mills, Jr., Chief Engineering Access Permits

Lb:maw

cc: Mr. Michael Dallas Mr. J. Ogle



333-1350 (Fax Number 333-1041) My telephone number is (301)_

Teletypewriter for Impaired Hearing or Speech 383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toli Free 707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: June 22, 1989

FROM: Robert W. Bowling, P.E. RE: Zoning Advisory Committee Meeting

for June 13, 1989

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 493, 514, 517, 520, 521, 522, **524**, 528, 529, 531, and 532.

For Item 511, the minimum panhandle width for one lot is 20 feet, not 10 feet as shown on the plan.

For Ilems 513, 516 and 533 the previous County Review Group Comments still apply.

For Item 519, all lots must have in-fee frontage to a public road.

For Item 530, comments are attached

ROBERT W. BOWLING, P.E., Chief Developers Engineering Division

RNB:s Encl.

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204 (301) 887-3554

July 24, 1989



ZONING OFFICE

The Bureau of Traffic Engineering has no comments for items number 493, 511, 513, 516, 517, 519, 520, 521, 522, 524; 528, 529, 530, 531, 532, and 533.

Very truly yours, Michael S. Flanigan Traffic Engineer Associate II

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

J. Robert Haines Zoning Commissioner

DATE: August 16, 1989

Pat Keller, Deputy Director Office of Planning and Zoning

C.F. Evans & Sons, Inc., Item 524 Zoning Petition No. 90-66-SPH

The petitioner requests a Special Hearing to approve a non-conforming use for a funeral home in a DR 5.5 zone. The Office of Planning and Zoning has no comment on the above

PK/JL/sf

CERTIFICATE OF POSTING 90-66-5PH ZONING DEPARTMENT OF BALTIMORE COUNTY Posted for:

C. F. Erons + Sons, Line.

Petitioner:

Nw/ Gov. Horford + latty Hill

Location of property.

Nw/ Gov. Ford Pd.

Location of Signs:

Location of Signs: Remarks:

Date of return: 12/8/89

Signature

> Baltimore County Fire Department 800 York Road Towson, Maryland 21204-2586 (301) 887-4500

Paul H. Reincke J. Robert Haines Zoning Commissioner Office of Planning and Zoning Baltimore County Office Building Towson, MD 21204



RE: Property Owner: C.F. EVANS AND SONS, INC. Location: #8800 HARFORD ROAD

JUNE 14, 1989

Zoning Agenda: JUNE 13, 1989 Item No.: Gentlemen:

Pursuant to your request, the ref renced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

Planning Froup Special Inspection Division

JK/KER

Dennis F. Rasmussen

Me-ESCI

